

Minutes of Meeting
Health Services Council
Project Review Committee-II

DATE: 19 January 2006

TIME: 3:00 PM

LOCATION: Health Policy Forum

ATTENDANCE:

Committee II: Present: Victoria Almeida, Esq., (Vice Chair), Raymond C. Coia, Maria R. Gil, Denise Panichas, Robert J. Quigley, DC, (Chair), Larry Ross, Reverend David Shire (Secretary)

Not Present: Rosemary Booth Gallogly, Wallace Gernt, Esq., Sen. Catherine E. Graziano, RN, Ph.D.

Staff: Valentina D. Adamova, Michael K. Dexter, Joseph G. Miller, Esq., Andrea Therrien (Intern)

Public: (see attached)

1. Call to Order and Approval of Minutes

The meeting was called to order at 3:05 PM. Minutes of the 10 and 17 November 2005 Project Review Committee - II meetings were approved as submitted. The Chairman noted that conflict of interest forms are available to any member who may have a conflict. The Chairman stated that due to the Open Meetings Act, the minutes of the meetings have to be available to the public by the next meeting date or within thirty-five days, which ever is sooner. The Chairman stated that because the next meeting might not occur within thirty-five days or the minutes might not be available by the next meeting time, he would ask the Committee members to vote to extend the availability of minutes beyond the time frame as provided for under the Open Meetings Act. A motion was made and seconded, and the motion passed by a vote of seven in favor and none opposed (7-0) that the availability of the minutes for this meeting be extended beyond the time frame as provided for under the Open Meetings Act. Those members voting in favor were: Almeida, Coia, Gil, Panichas, Quigley, Ross, Shire.

2. General Order of Business

The first item on the agenda was the Applications of Dialysis Center of Wakefield, LLC, Dialysis Center of Warwick, LLC, Dialysis Center of West Warwick, LLC, Dialysis Center of Westerly, LLC, and Dialysis Center of Woonsocket, LLC [subsidiaries of American Renal Associates, Inc.] for change in effective control of five Outpatient

Kidney Treatment Centers owned by Bio-Medical Applications of Rhode Island, Inc., Bio-Medical Applications of Woonsocket, Inc., and Everest Health Care of Rhode Island, Inc. [subsidiaries of Fresenius Medical Care Holdings, Inc.] at the following locations: 140 Kenyon Avenue in Wakefield, 2736 Post Road in Warwick, 1775 Bald Hill Road in Warwick, 1 Rhody Drive in Westerly, and 2100 Diamond Hill Road in Woonsocket. Staff provided a memo summarizing utilization, breakeven data and market share. Staff stated that based on conversations there is not expected to be any action from the Office of Attorney General.

Dr. Quigley requested that the applicant review responses to Committee's questions. The applicant reviewed the responses and noted that facilities in Wakefield and Woonsocket are projected to have an operating profit in 2006.

Dr. Quigley asked if the facilities would have to be divested if the Federal Trade Commission ("FTC") did not approve the transaction. The applicant stated that if it was unable to find another buyer for the facility and had to divest it, it would continue in its obligation to patients to offer care and that patients would not be abandoned. To a Committee question, Mr. Miller stated that although a smaller FTC statute for Rhode Island's Attorney General exists, the applicant is obligated to abide by the conditions and decision on the federal level.

Staff noted that it revised the market concentration analysis provided

by the applicant to include additional 2 facilities because the applicant used older data. Staff noted that the applicant would own 60% of all stations and 52% of all facilities in Rhode Island, Massachusetts and Connecticut . Staff stated that if the market share analysis were limited to Rhode Island that the applicant would own 11 out of 13 or 85% of facilities.

Staff asked the applicant to address the low utilization levels at Johnston and East Providence facilities. The applicant stated that the Johnston facility is operating at 12% utilization but has only been operational for 8 months. The applicant stated that once the North Providence facility is closed, patients would likely transfer to the Johnston facility. The applicant noted that the East Providence facility has been operational for 18 months and is operating at 26% utilization and that it's a bigger facility. The applicant stated that approximately 99% of patients are covered by insurance and that it will treat any patient regardless of their ability to pay.

The Chairman asked if the applicant would agree to the conditions of approval that the applicants shall provide pediatric nephrology services consistent with the commitments detailed in the letter from Joseph A. Carlucci to Andrew S. Brem, M.D. dated 17 November 2005, and that the applicants shall comply with any final order entered by a federal court at the behest of the Federal Trade Commission and shall provide a copy of such order to the state agency within 30 days thereof. The applicant agreed to these conditions of approval.

A motion was made, seconded and passed by a vote of six in favor, none opposed and one recusal (6-0-1) to recommend that the applications be approved with the additional conditions of approval that the applicants shall provide pediatric nephrology services consistent with the commitments detailed in the letter from Joseph A. Carlucci to Andrew S. Brem, M.D. dated 17 November 2005, and that the applicants shall comply with any final order entered by a federal court at the behest of the Federal Trade Commission and shall provide a copy of such order to the state agency within 30 days thereof. Those members voting in favor of the motion were: Coia, Gil, Panichas, Quigley, Ross, Shire. Almeida recused.

Staff noted that the next Health Services Council meeting has been scheduled for 31 January 2006.

There being no further business the meeting was adjourned at 4:00 PM.

Respectfully submitted,

Valentina D. Adamova